IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 63 OF 1999.

1. State of Goa,
   through Dy. Collector &
   L.A.O., Quepem.

2. The Executive Engineer,
   WD, XXV (NH) P.W.D.,
   Gogol, Margao ..... Appellants.

Versus

1. Veronica Fernandes Dias.
2. Ida Dias.
3. Vanny Dias.
4. Berson Dias,
   all residing at Chinchinim,
   Salcete, Goa. .... Respondents.

Ms. W. Coutinho, Government Advocate for the Appellants.

Shri G. Fernandes, Advocate for the Respondent.

CORAM: R. M. LODHA, J.

DATE: 7th OCTOBER, 2005.

ORAL JUDGMENT:

In this First Appeal the Land Acquisition Officer, South Goa, Sub-Division III and the Executive Engineer W.D. XXIV, P.W.D., Gogol, Margao seek to challenge the legality and correctness of the Judgment and Award dated 5th January, 1999 passed by IInd Addl. District Judge, South

Goa, Margao in Land Acquisition Case No.323/1992 which pertained to acquisition of 120 sq.m. of land from property under Survey No.43/5 situated at village Chinchinim, Taluka Salcete belonging to the respondent.

2. The State Government issued Notification under S.4(1) of the Land Acquisition Act dated 11.5.1988 that was published in the Official Gazette on 4.8.1988 for acquisition of the aforesaid land along with other land for widening and improvement of National Highway No.17. Upon conclusion of the acquisition proceedings, the Land Acquisition Officer fixed the market value of the acquired land at Rs.16 per sq.m. and offered compensation accordingly. The respondent-claimant (owner) was dissatisfied with the offer of compensation made by the Land Acquisition Officer and, accordingly, sought reference under S.18 of the Land Acquisition Act. The matter was, thus, referred by the Land Acquisition Officer to the Civil Court.

3. Before the Reference Court, one of the claimants – Veronica Fernandes Dias (AW1) examined herself. They also examined Rosa Coutinho (AW2). The claimants produced the two sale deeds dated 28.9.90 (Exh.AW2/A) and 13.8.1985 (Exh.AW2/B). According to the claimants, the two sale deeds relating to one land only pertained to similarly situated land of proximate area abutting the National Highway No.17.

4. The present appellants did not lead any evidence in rebuttal.

5. The Reference Court took the Sale Deed dated 13.8.1985 as the basis and after scaling down the sale consideration provided in the sale deed dated 13.8.1985 to 50% considered 10% increase in the land per year and, accordingly, fixed the market value at Rs.100/- per sq.m.

6. Aggrieved thereby the present appeal has been preferred.

7. The learned Government Advocate as well as the learned Advocate for the respondent/claimant did not dispute that the subject matter of this First Appeal is identical to the subject matter of First Appeal No.32/1999 that was disposed of by me on October 6, 2005. In view thereof, they agreed that this First Appeal does not require detailed discussion. Having considered the matter, I find that the evidence that has been produced by the present claimant is identical to the evidence that was produced by the claimant in F.A. No.32/1999. In both these cases the Sale Deed dated 13.8.1985 was taken by the Reference Court as the basis for determining the market value of the acquired land in the year 1985. The land in both the cases has been acquired under the same Notification, for the same public purpose and by the identical judgment the Reference Court decided the reference. Without repeating the reasons that were indicated by me in

my Judgment in First Appeal No.32/1999 (State of Goa v. Joaquim Crasto), the reasons thereof may be considered as part of this judgment, I am of the view that the market value of the acquired land fixed by the Reference Court at the rate of Rs.100/- per sq.m. deserves to be upheld and I hold so.

8. Consequently, First Appeal is dismissed with no order as to costs.

R. M. LODHA, J.

sl.